



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

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December 2, 2002

Thayn Ranches
c/o Lee Thayn
P.O. Box 447
Green River, Utah 84525

Green River Canal Company
c/o Tim Vetere, President
P.O. Box 84
Green River, Utah 84525

Dear Mr. Thayn and Mr. Vetere:

In the course of the Division of Water Right's involvement in the dispute between Thayn Ranches and Green River Canal Company, it has become apparent there is a need for some regulation of the water diverted by the two parties. In addition, I recently received a letter from Mr. Steven A. Wuthrich, attorney for Lee Thayn, requesting enforcement of the allowable diversion rate and annual irrigation duty for both Thayn Ranches and Green River Canal Company. I do not believe the issues in question require the appointment of a water commissioner at this time. However, I believe the installation and operation of adequate measuring devices would be very helpful to ensure both parties adhere to the conditions and limitations of their respective water rights.

Section 73-5-4 of the Utah Code Annotated, 1953, as amended, states in part:

"Every person using water in this state shall construct or install and maintain a substantial head gate, cap, valve or other controlling works, weir, flume and measuring device at each point where water is diverted or turned out, for the purpose of regulating and measuring the quantity of water that may be used. Such controlling works or measuring device shall be of such design as the state engineer may approve and so that the same can be locked and kept set by him or his assistants. If the owner of irrigation works, canals, reservoirs, wells, pumps or tunnels shall refuse or neglect to construct such head gates, caps, valves, flumes or measuring devices after thirty days notice to do so by the state engineer, the state engineer may forbid the use of water until the user thereof shall comply with this requirement, or the state engineer may proceed to construct or install or cause to be installed such controlling works or

measuring devices, and the cost of the same shall be a lien against the lands and water rights served thereby, and the state engineer is authorized to bring such action in the name of the state to foreclose such lien."

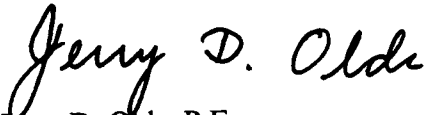
Therefore, both parties are hereby notified that measuring devices and continuous data recorders must be installed prior to the start of the 2003 irrigation season. **The design and installation of the measuring devices must be approved by the staff at the Division of Water Rights regional office in Price, prior to installation.** The measuring devices must be properly installed to provide an adequate measurement of the flow of water in the canal. Each measuring device must be equipped with a staff gage for visual inspection of the flow and with a recording device to provide a continuous record (every 15 minutes or some other agreed upon interval) so the daily average discharge can be accurately computed.

Failure to comply with this notice may result in an order from the State Engineer to cease the use of water. Such an order will be enforced through the district court, if necessary.

The measuring devices shall be installed, operated and maintained in good working condition at the expense of each party. Pursuant to Sections 73-2-20 and 73-5-7 of the Utah Code, each party must provide the Division of Water Rights staff with access to the measuring devices and the data recorder to download the data and monitor the operation of the devices. It is proposed that Division staff will inspect the measuring devices periodically. It is anticipated they will visit the sites monthly to collect the data and ensure the devices are operating properly. The diversion records will be compiled into average daily discharge tables which will be provided to the parties so they can keep track of their water usage throughout the season.

If you have any questions concerning this notice, please contact me at (801) 538-7371 or Lee Sim, Assistant State Engineer, at (801) 538-7380 or Mark Page, Regional Engineer at (435) 637-1303.

Respectfully,



Jerry D. Olds, P.E.
State Engineer

cc: Lee Sim, Assistant State Engineer
Mark Page, Regional Engineer
Ward Wagstaff, Assistant Attorney General
Julie Valdes, Assistant Attorney General
J. Craig Smith, Esq., Green River Canal Company
Steven Wuthrich, Esq., Thayn Ranches
Sherm Hoskins, Deputy Director, Department of Natural Resources